

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**AMENDED**

DO NOT WRITE IN THIS SPACE

Case

09-CA-267517

Date Filed

11/18/2020

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer KMG FABRICATIONS, INC. D/B/A New Flyer of America, Inc.		b. Tel. No. 502-795-4193
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 695 Park Loop Road Shepherdsville, KY 40165	e. Employer Representative Wayne England Human Resources Manager	g. e-mail wayne_england@newflyer.com
		h. Number of workers employed 300
i. Type of Establishment (factory, mine, wholesaler, etc.) Factory	j. Identify principal product or service Transportation	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On or about (b) (6), (b) (7)(C) 2020 the above named employer, by its officers, agents and representatives, terminated (b) (6), (b) (7)(C) because of (b) (6) activities on behalf of the IUE-CWA, a labor organization, and because (b) (6) engaged in concerted activities with other employees of said employer for the purpose of collective bargaining and other mutual aid and protection, and in order to discourage membership in said labor organization. Further, at all times since said date, and for the aforesaid reasons, said employer has refused, and does now refuse, to employ the above-named employee. By these actions, the above-named employer has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
IUE-CWA, the Industrial Division of the Communications Workers of America, AFL-CIO

4a. Address (Street and number, city, state, and ZIP code) 2701 Dryden Rd., Dayton, OH 45439	4b. Tel. No. 937-298-9984
	4c. Cell No.
	4d. Fax No.
	4e. e-mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
Communications Workers of America, AFL-CIO**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Robert F. Holt
(signature of representative or person making charge)

Robert F. Holt, IUE-CWA General Counsel
(Print/type name and title or office, if any)

2701 Dryden Rd., Dayton, OH 45439
Address

November 18, 2020
Date

Tel. No.
937-298-9985
Office, if any, Cell No.
937-723-1779
Fax No.
937-298-2636
e-mail
rholt@iue-dwa.org

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 9
550 MAIN ST
RM 3-111
CINCINNATI, OH 45202-3271

Agency Website: www.nlrb.gov
Telephone: (513)684-3686
Fax: (513)684-3946



Download
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November 20, 2020

Wayne England, Human Resources Manager
KMG Fabrications, Inc. d/b/a New Flyer of America
695 Park Loop Rd
Shepherdsville, KY 40165

Re: KMG FABRICATIONS, INC. D/B/A NEW FLYER OF AMERICA
Case 09-CA-267517

Dear Mr. England:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney JULIUS U. EMETU whose telephone number is (513)684-3651. If the agent is not available, you may contact Supervisory Attorney ERIC A. TAYLOR whose telephone number is (513)684-3659.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

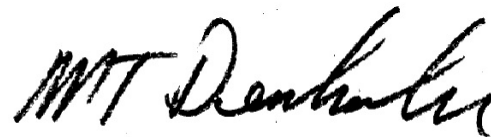
Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlrb.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its

November 20, 2020

determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink, appearing to read "MT Denholm", written in a cursive style.

Matthew T. Denholm
Regional Director

Enclosure: Copy of first amended charge

cc: David A. Kadela, Esq.
Littler Mendelson PC
41 South High Street, Suite 3250
Columbus, OH 43215

Jeffrey S. Hiller, Esq.
Littler Mendelson, PC
41 South High Street, Suite 3250
Columbus, OH 43215

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**KMG FABRICATIONS, INC. D/B/A NEW
FLYER OF AMERICA**

Charged Party

and

**INTERNATIONAL UNION OF ELECTRONIC,
ELECTRICAL, SALARIED, MACHINE AND
FURNITURE WORKERS AFL-CIO (IUE) -
COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO (CWA), IUE-CWA, THE
INDUSTRIAL DIVISION OF THE
COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO**

Charging Party

Case 09-CA-267517

AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on November 20, 2020, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

Wayne England, Human Resources Manager, KMG Fabrications, Inc. d/b/a New Flyer of America, 695 Park Loop Rd, Shepherdsville, KY 40165

David A. Kadela, Esq., Littler Mendelson PC, 41 South High Street, Suite 3250, Columbus, OH 43215

Jeffrey S. Hiller, Esq., Littler Mendelson, PC, 41 South High Street, Suite 3250, Columbus, OH 43215

November 20, 2020

Date

L. Hellrung, Designated Agent of NLRB

Name

/s/ Laura K. Hellrung

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 9
550 MAIN ST
RM 3-111
CINCINNATI, OH 45202-3271

Agency Website: www.nlrb.gov
Telephone: (513)684-3686
Fax: (513)684-3946



Download
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November 20, 2020

Robert Holt, General Counsel, IUE-CWA
International Union of Electronic, Electrical,
Salaried, Machine and Furniture Workers, et al.
2701 Dryden Rd
Dayton, OH 45439-1684

Re: KMG FABRICATIONS, INC. D/B/A NEW FLYER OF AMERICA
Case 09-CA-267517

Dear Mr. Holt:

We have docketed the first amended charge that you filed in this case.

Investigator: This charge is being investigated by Field Attorney JULIUS U. EMETU whose telephone number is (513)684-3651. If the agent is not available, you may contact Supervisory Attorney ERIC A. TAYLOR whose telephone number is (513)684-3659.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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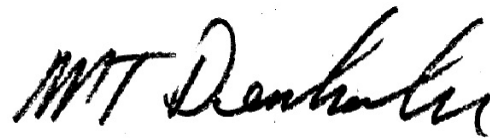
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November 20, 2020

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Matthew T. Denholm
Regional Director